

REMARKS

Claims 155-174 are in the application.

Claims 155-157 and 159 are amended and claims 161-174 are new.

INTERVIEW SUMMARY

Applicants appreciate the time and extraordinary efforts of the Examiner in advancing prosecution of this Application. In an effort to avoid protracted prosecution and burdensome Interference proceedings, applicants proposed amending the claims to avoid falling under the two-way same invention test applied for the initiation of Interference proceedings. Therefore, upon acceptance of the proposed claims for examination on the merits, without premature termination or examination due to PTO procedural limitations, applicants agreed to drop their Request for Interference.

The claims were earlier presented to the Examiner in an effort to ensure that they would avoid the interference and be considered allowable in view of the art of record in the application. In addition, applicants called to the attention of the Examiner: Yourick, US 4,775,935, which has been cited in related applications, but is believed clearly distinguished by the present claims.

The Examiner indicated that the independent claims appeared to avoid the interference and were allowable in view of the present record, but that further Examination would be required prior to allowance.

INTERFERENCE

Applicants withdraw their Request for Interference, based on the fact that the claims are believed sufficiently distinguished from Wehmeyer et al. (US 5,867,226) such as to avoid a two way same invention test as presently implemented for determining whether an Interference should be declared.

PRIORITY CLAIM

The Examiner has determined that the priority claim presented in this application is ineffective, and therefore that the effective filing date for examination purposes is February 2, 2000, the actual filing date. Applicant has amended the specification to recite the priority claim, and further notes that the initial FORM PTO-1082 (modified) filed with the application, as well as the Declaration and Power of Attorney all list the various priority claims. 37 C.F.R.

1.76(b)(5) provides:

(5) *Domestic priority information.* This information includes the application number, the filing date, the status (including patent number if available), and relationship of each application for which a benefit is claimed under 35 U.S.C. 119(e), 120, 121, or 365(c). Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and § 1.78(a)(2) or § 1.78(a)(4), and need not otherwise be made part of the specification.

It is therefore respectfully submitted that the priority claim is properly presented, and the application should be examined accordingly.

Please also note that the current effective priority date is December 23, 1991, since applicants have now formally presented a priority claim to 07,812,805, filed December 23, 1991, which forms the basis of a priority claim in U.S. 6,081,750, of record. An executed Supplemental Declaration will be supplied as soon as possible.

On the basis of this priority claim, Hendricks et al. and Strubbe are removed as potential references, without any implication that the present claims distinguish these references.

FORMAL REJECTIONS

Claims 155-160 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

While it is believed that the present amendments overcome these rejections, applicants provide the below analysis to rebut any lingering presumption that these amendments were made in acquiescence to the rejection(s), or otherwise for patentability.

The prior claims allegedly contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The real issue in this case is whether applicants possessed the invention prior to the inventors of U.S. 5,867,226. Applicants have alleged that the claims are entitled to priority to the benefit of priority from U.S. Patent Application No. 08/469,589, filed June 6, 1995, or U.S. Patent Application no. 08/471,213, filed June 6, 1995, now U.S. 6,081,750, prior to the November 17, 1995 priority claim of U.S. 5,867,226, and on this issue we shall focus.

The particular basis for the rejection is that the step of "storing in a memory means data representing said channel guide list". It is initially noted that the memory is represented in U.S. 6,081,750 as reference numeral 2413, the local database in Fig. 24. The supporting text reads as follows:

A further example of the use of the advanced intelligent features of the present invention is the use of the system to record, e.g., "live" musical performances. These occur on many "talk" shows, such as "Tonight Show" (NBC, 11:30 p.m. to 12:30 p.m., weeknights), "Saturday Night Live" (NBC 11:30 p.m. to 1:00 a.m. Saturday-Sunday), and other shows or "specials" such as the "Grammy Awards". The interface, if requested by the user to record such performances, then seeks to determine their occurrence by, e.g.: analyzing a broadcast schedule; interacting with the on-line database 2411; and by reference to the local database 2413. When the interface determines with high probability that a broadcast will occur, it then monitors the channel(s) at the indicated time(s), through the plurality of tuners 2502. The system may also autonomously scan broadcasts for unexpected occurrences.

The present application states: "The characterization unit also has a local database 2413 for storing schedule information and the like." It is therefore clear that the guide data is stored in a memory within the set top box.

The Examiner also notes that the clause: "performing a search of said channel guide list for a match to specific data representing said characteristics of television programs previously

watched by said user" is supported by the instant application, but without specific analysis regarding the priority claim. In this regard, applicants note that this aspect is also disclosed in the U.S. 6,081,750, which includes essentially identical text to the noted passage in the instant specification.

The Examiner rejects claim 156 because the application allegedly fails to support the language: "performing a search of said television program-descriptive text..." However, U.S. 6,081,750 states:

The videotext signal of the prior art includes a digitally encoded text message which may be displayed in conjunction with the displayed image, similar to the closed caption system. The aforementioned West German system demonstrates one way in which the transmitted signal may be received by a device and interpreted to provide useful information other than the transmitted program itself. However, the prior art does not disclose how this signal may be used to index and catalog the contents of a tape, nor does it disclose how this signal may be used to classify or interpret the character of the broadcast. In other words, in one embodiment of the present invention, the videotext or closed caption signal is not only interpreted as a literal label, as in the prior art, but is also **further processed and analyzed to yield data about the content of the broadcast**, other than merely an explicit identification of the simultaneously broadcast information.

It is also noted that the present technology could also be applied to any sort of mass storage, such as for a personal computer. In such a case, a characteristic of the computer file, which is analogous to the broadcast program in temporary storage of a VCR, is classified according to some criteria, which may be explicit, such as an explicit header or identifying information, or implicit, such as a document in letter format, or a memorandum, as well as by words and word proximity. In particular, such a recognition system could differentiate various clients or authors based on the content of the document, and these could be stored in different manners. **The text analysis system of a text-based computer storage system is analogous to the program classification system of the VCR embodiment of the present invention. However, there is a further analogy, in that the VCR could incorporate optical character recognition of text displayed in the program material, employ voice recognition, or directly receive text information as a part of a closed caption or videotext system. Thus, the VCR device according to the present invention could recognize and classify programs based on textual cues, and make decisions based on these cues.** This might also provide a simple method of discriminating program material, for example, if a commercial does not include close caption or Second Audio Program (SAP), while the desired program does, or vice versa, then a commercial could be discriminated from a program with very little computational expenditure.

A user interacting with the device intends to record a particular program, "Married With Children" (Fox, Sunday, 9:00 p.m., etc.) on its ever occurrence. This intent, however, is to provide a full library of episodes, and not to duplicate episodes. The particular program is subject to the occurrence of reruns, syndicated distribution, time shifting of performance, preview scenes and advertisements. Further, various actors appearing in the particular program also appear in other capacities and roles on television.

Therefore, after this intent is elucidated, **the interface scans available directories of programming to determine when "Married With Children" will be broadcast.** In addition, to the extent possible, all channels may be monitored, in the event that the directories or erroneous or incomplete.

The user having demonstrated a preference for "Married with Children", the interface then characterizes the program. This includes, for example, a characterization of the soundtrack, the background, foreground, actors and actresses present, credits, etc. The interface then attempts to **correlate the features present in the reference selection with other available selections. This comparison may be with a preformed database, providing immediate results,** or prospectively, after entry of the reference selection. Of course, a number of correlation functions may proceed simultaneously, and various choices may be merged to form a compound reference selection, any ambiguity in which to be later resolved. Further, as various "episodes" of the reference selection occur, the system appends and integrates the most recent occurrence with the stored reference information, thus updating the reference database.

Therefore, it is respectfully submitted that prior claim 156 is supported in the June 6, 1995 applications, since the applications disclose the use of both a channel guide, as well as descriptive information, which can include text, which accompanies the channel guide information, and which relates to title, star or context. On further analysis, support for the searchability of "director" is present, since this is a part of the then-known program guide information, and therefore would be searchable as would all other information in the listing, but not explicit, and is therefore withdrawn from the claims. Note that "Married with Children" is a title, and therefore supports this limitation.

With regard to claim 160, it is believed that "news" as disclosed on page 170, line 20, is a "topic". "Married with Children", page 166, line 19, is a "title". The programming of date is disclosed on page 123, line 19. As disclosed in the specification, a history of use is recorded, which would include this date. See also page 130, line 6. The use of "theme" is disclosed on page 145, lines 13-23, et seq. It is therefore respectfully submitted that the entirety of claim 160 is supported in the specification.

ART REJECTIONS

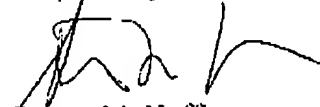
Claims 155-160 are rejected under 35 U.S.C. 102(f) in view of Wehmeyer.

Without prejudice or disclaimer, applicants have, as discussed above, demonstrated that they are the first inventors of the subject matter of claims 155-160. The rejection is moot, however, in view of the amendment of the claims, which was not made for reasons of patentability, and indeed, it is believed that the present claims are as broad, or broader, in respects, than the original claims, and the specification supports the original claims with a priority date of at least June 1995.

CONCLUSION

It is respectfully submitted that the application is in form for allowance.

Respectfully submitted,



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